



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456



Town of Pelham
Attn. Board of Selectmen
6 Main Street
Pelham, New Hampshire 03076

Re: Pelham Tax Map 15, Lot 8-212

ADMINISTRATIVE ORDER
No. WMD 03-03

January 7, 2003

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to the Town of Pelham pursuant to RSA 149-M:15. This Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. The Town of Pelham ("Town") is a duly constituted municipality of the State of New Hampshire having a mailing address of 6 Main Street, Pelham, NH 03076.

C. STATEMENTS OF FACTS AND LAW

1. RSA 149-M authorizes DES to regulate the management and disposal of solid waste. Pursuant to RSA 149-M:7, the Commissioner of DES has adopted New Hampshire Administrative Rules Env-Wm 100-300, 2100 *et seq.* ("Solid Waste Rules") to implement this program.
2. The Town is the owner of the property identified on Pelham Tax Map 15 as Lot 8-212 ("Property").
3. RSA 149-M:9, I states that "[n]o person shall construct, operate, or initiate closure of a public or private facility without first obtaining a permit from [DES]".
4. RSA 149-M:4, IX defines "facility" as "a location, system, or physical structure for the collection, separation, storage, transfer, processing, treatment, or disposal of solid waste".
5. A solid waste incineration facility ("Incinerator") exists on the Property
6. A review of DES records has revealed that the Town has not applied for a permit to either operate or close the Incinerator.

D. DETERMINATIONS

1. The Town has violated RSA 149-M:9 by failing to obtain a permit to operate or initiate closure activities at the Incinerator.

E. ORDER

Based on the above findings, DES hereby orders the Town as follows:

1. **By January 13, 2003** complete closure of the Incinerator in accordance with the Solid Waste Rules and approved final closure plans submitted by the Town.

By January 30, 2003 submit a final closure report

Send all correspondence relative to this matter to:

Mr. Richard S. Reed, Administrator
Solid Waste Management Bureau
NHDES, Waste Management Division
6 Hazen Drive
Concord, NH 03301-6509

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us.desadmin.htm>. Appealing the Order does not automatically relieve the Town of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 149-M provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. The Town remains obligated to comply with all applicable requirements, in particular RSA 149-M and the New Hampshire Solid Waste Rules. DES will continue to monitor the Town's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

COPY

Philip J. O'Brien, Ph.D., Director
Waste Management Division

COPY

George Dana Bisbee, Acting Commissioner
Department of Environmental Services

GDB/PJO/KWM/RSR/dwk/f:/AO/pelao

CERTIFIED MAIL/RRR # 7099 3400 0003 0564 6866

cc: Jennifer Patterson, Sr. Asst. Attorney General, NHDoJ
Gretchen C. Rule, Administrator, NHDES Legal Unit
Pelham Town File/DB